



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : **Confirmation No. 8997**
Peter HEROLD et al. : Attorney Docket No. 2006_1381A
Serial No. 10/593,461 : Group Art Unit 1626
Filed September 19, 2006 : Examiner Rei Tsang Shiao
ORGANIC COMPOUNDS : **Mail Stop: Amendment**

REQUEST FOR NEW OFFICE ACTION
AND
RESETTING DATE FOR RESPONSE

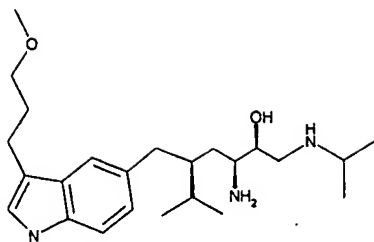
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

THE COMMISSIONER IS AUTHORIZED
TO CHARGE ANY DEFICIENCY IN THE
FEE FOR THIS PAPER TO DEPOSIT
ACCOUNT NO. 23-0975.

Sir:

At the beginning of item 3 on page 2 of the Office Action, the Examiner correctly indicates that Applicants elected the Group III subject matter (as defined in the Office Action of July 29, 2008). However, in the last two paragraphs on page 2, the Examiner's definition of the scope of the invention of the elected subject matter appears to be based on Groups I and II. Referring to item 7 on page 14, the "non-elected subject matter" which the Examiner suggests be deleted from the claims is encompassed by the elected Group III subject matter. Thus, it seems that, based on items 3 and 7, the Examiner did not search/examine the elected subject matter.

In more detail, in response to the restriction requirement Applicants elected Group III, and as a specific species the compound of instant Example 3A (3-amino-1-isopropylamino-5-[3-(3-methoxypropyl)-1-methyl-1H-indol-5-ylmethyl]-6-methylheptan-2-ol):



In the instant Office Action the Examiner acknowledges the election of Group III and the election of Example 3A.


Nevertheless, in the last paragraph of page 2 of the Office Action the Examiner surprisingly **refers wrongly to Group I**. The same conclusion can be based on the content of item 7 on page 14 of the Office Action. The Examiner maybe saw that instant Example 3A contains an indolyl (radical R⁶), however Example 3A does not fulfill the second requirement for Group I, namely that R¹ and R² and the nitrogen atom to which they are bonded form a heterocycle ring, piperidine, and therefore Example 3A does fall within Group III.

Thus, since the Examiner did not search/examine the elected subject matter, Applicants request that a new Office Action, directed to the elected subject matter, be issued.

Applicants further request that the date for responding to the Office Action be reset to expire three months from the mailing date of the new Office Action.

Respectfully submitted,

Peter HEROLD et al.

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